

DETAILED ACTION

Drawings

1. The drawings are objected to because the figure is not labeled as "figure 1". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: the figure is not labeled as "figure 1" and a brief description of drawings is missing from the

specification. The specification is also objected to because it does not provide antecedent basis for claims 8 and 9. The specification does not state the spacing distance (0.2mm to 0.5mm) between the anvil and the flange.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 states that an anvil is between the annular surface portion end where the horn is pressed against the wall of the container and the flange of the fitment. According to the drawings and specification, the flange is between the anvil and the annular surface portion. For the purpose of examination, the anvil will be pressing against the flange of the fitment, where the flange is between the anvil and the vibrating horn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody et al. (5,759,319) in view of Bachner et al. (6,085,489).

Regarding claim 6, Moody et al. has a method for welding a pour spout fitment 31 that is received over a free end of a head/carton locator 101 that protrudes from an anvil/arm 73. The head 101 and fitment 31 are introduced to an ultrasonic welding horn 98 with a recess 10. The horn vibrates while pressing the anvil 73 and welds the wall of the container and outer portion of the flange 33. The inner portion of the flange 33 is spaced from the anvil 73 by the weld backup 103 (figures 1, 10, 11 and column 4 line 58 to column 5 line 18). Moody et al. does not state the shape of the anvil 73 as being annular. However, Bachner et al. shows an annular anvil 184 (figure 6). It would have been obvious at the time of the invention to use an annular anvil as it would be a user's design choice and the shape would provide the same function of holding and supporting the annularly spout during ultrasonic bonding.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody et al. (5,759,319) and Bachner et al. (6,085,489) as applied to claim 6 above, and further in view of Thompson et al. (5,653,832).

Regarding claim 7, Moody et al. does not state that there is a spacing between a free end surface of the head and the facing surface of the fitment. However, Thompson et al. shows a head/spud 74 that does have spacing between a free end of the head and the fitment 31 (figure 1). It would have been obvious at the time of the invention to

have a space between the head and the fitment to prevent ultrasonically welding the head to the fitment.

Allowable Subject Matter

8. Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Prior art was not found where the ring has a diameter less than the diameter of the recess.
9. Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. No prior art was found that stated the spacing distance between the surface portion of the anvil and the outer portion of flange.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIN P. BARRY whose telephone number is (571)270-3634. The examiner can normally be reached on Monday through Thursday from 8am-5pm Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerry A Lorengo/
Supervisory Patent Examiner, Art Unit 1793

EPB
4/10/2008